

BILL NO. Z-85-02-13

ZONING MAP ORDINANCE NO. Z-

03-85

AN ORDINANCE amending the City of  
Fort Wayne Zoning Map No. F-11.

BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF FORT WAYNE,

INDIANA:

SECTION 1. That the area described as follows is hereby designated  
an RA (Suburban Residential) District under the terms of Chapter 33 of the  
Code of the City of Fort Wayne, Indiana of 1974:

All that part of the Southwest quarter of Section 17, Township  
30 North, Range 12 East, lying north of the right-of-way of  
the Fort Wayne and Northern Indiana Traction Company, more  
particularly described as follows, to-wit: Beginning at the  
Northwest corner of said Southwest Quarter; thence North 87  
degrees 49 minutes East along the North line of said Southwest  
Quarter, 599.3 feet to the north right-of-way line of the Fort  
Wayne and Northern Indiana Traction Company; thence South 51  
degrees 44 minutes West along said right-of-way, 39.7 feet;  
thence South 53 degrees 39 minutes West, continuing along said  
right-of-way, 670.8 feet to the west line of said Southwest  
quarter; thence North 03 degrees 56 minutes West along said  
west line 400.3 feet to the point of beginning, containing  
2.764 acres of land. SUBJECT to all real estate taxes and  
assessments; and ALSO SUBJECT to all easements, visible or of  
record, and to all restrictions, conditions and limitations of  
record.

and the symbols of the City of Fort Wayne Zoning Map No. F-11, as  
established by Section 11 of Chapter 33 of the Code of the City of Fort  
Wayne, Indiana are hereby changed accordingly.

SECTION 2. That this Ordinance shall be in full force and effect  
from and after its passage and approval by the Mayor.

  
COUNCIL MEMBER

APPROVED AS TO FORM AND LEGALITY:

  
BRUCE O. BOXBERGER, CITY ATTORNEY



Read the first time in full and on motion by Redd, seconded by Talarico, and duly adopted, read the second time by title and referred to the Committee Regulation (and the City Plan Commission for recommendation) and Public Hearing to be held after due legal notice, at the Council Chambers, City-County Building, Fort Wayne Indiana, on \_\_\_\_\_, the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, at \_\_\_\_\_ o'clock \_\_\_\_\_.M.,E.S.

DATE: 2-12-85

Sandra E. Kennedy  
SANDRA E. KENNEDY, CITY CLERK

Read the third time in full and on motion by Redd, seconded by Stier, and duly adopted, placed on its passage. PASSED ~~(LOST)~~ by the following vote:

	<u>AYES</u>	<u>NAYS</u>	<u>ABSTAINED</u>	<u>ABSENT</u>	<u>TO-WIT:</u>
<u>TOTAL VOTES</u>	<u>5</u>	<u>4</u>	_____	_____	_____
<u>BRADBURY</u>	_____	<u>✓</u>	_____	_____	_____
<u>BURNS</u>	<u>✓</u>	_____	_____	_____	_____
<u>EISBART</u>	<u>✓</u>	_____	_____	_____	_____
<u>GIAQUINTA</u>	_____	<u>✓</u>	_____	_____	_____
<u>HENRY</u>	<u>✓</u>	_____	_____	_____	_____
<u>REDD</u>	<u>✓</u>	_____	_____	_____	_____
<u>SCHMIDT</u>	<u>✓</u>	_____	_____	_____	_____
<u>STIER</u>	_____	<u>✓</u>	_____	_____	_____
<u>TALARICO</u>	_____	<u>✓</u>	_____	_____	_____

DATE: 4-23-85

Madge Eschoff  
SANDRA E. KENNEDY, CITY CLERK  
Chief Deputy

Passed and adopted by the Common Council of the City of Fort Wayne, Indiana, as ~~(ANNEXATION)~~ (APPROPRIATION) ~~(GENERAL)~~

(SPECIAL) (ZONING MAP) ORDINANCE (RESOLUTION) NO. 3-03-85

on the 23rd day of April, 1985,

ATTEST:

(SEAL)

Madge Eschoff  
SANDRA E. KENNEDY, CITY CLERK  
Chief Deputy

Mark E. Giaquinta  
PRESIDING OFFICER

Presented by me to the Mayor of the City of Fort Wayne, Indiana, on the 24th day of April, 1985, at the hour of 11:30 o'clock A.M.,E.S.T.

Madge Eschoff  
SANDRA E. KENNEDY, CITY CLERK  
Chief Deputy

Approved and signed by me this 25th day of April, 1985, at the hour of 9:00 o'clock A.M.,E.S.T.

Win Moses, Jr.  
WIN MOSES, JR., MAYOR



PETITION FOR ZONING ORDINANCE AMENDMENT

RECEIPT NO. \_\_\_\_\_

DATE FILED \_\_\_\_\_

INTENDED USE \_\_\_\_\_

THIS IS TO BE FILED IN DUPLICATE

I/We PETER GALLUCCI  
(Applicant's Name or Names)

do hereby petition your Honorable Body to amend the Zoning Map of Fort Wayne Indiana, by reclassifying from a/an R1 District to a/an RA District the property described as follows:

SEE ATTACHED:

(Legal Description) If additional space is needed, use reverse side.

ADDRESS OF PROPERTY IS TO BE GIVEN:

(General Description for Planning Staff Use Only)

I/We, the undersigned, certify that I am/We are the owner(s) of fifty-one percentum (51%) or more of the property described in this petition.

<u>FRANK GALLUCCI</u>	<u>10434 COVINGTON</u>	<u>F. Gallucci</u>
<u>RITA GALLUCCI</u>	<u>" "</u>	<u>Rita Gallucci</u>
(Name)	(Address)	(Signature)

(If additional space is needed, use reverse side.)

Legal Description checked by \_\_\_\_\_ (OFFICE USE ONLY)

NOTE FOLLOWING RULES

All requests for deferrals, continuances, withdrawals, or request that the ordinance be taken under advisement shall be filed in writing and be submitted to the City Plan Commission prior to the legal notice pertaining to the ordinance being sent to the newspaper for legal publication. If the request for deferral, continuance or request that ordinances be taken under advisement is received prior to the publication of the legal ad being published the head of the Plan Commission staff shall not put the matter on the agenda for the meeting at which it was to be considered. The Plan Commission staff will not accept request from petitioners for deferrals, continuances, withdrawals, or requests that an ordinance be taken under advisement, after the legal notice of said ordinance is forwarded to the newspaper for legal publication but shall schedule the matter for hearing before the City Plan Commission. (FILING FEE \$50.00)

Name and address of the preparer, attorney or agent.

<u>PETER GALLUCCI</u>	<u>10434 COVINGTON</u>	<u>432-3434</u>
(Name)	(Address & Zip Code)	(Telephone Number)

COMMUNITY DEVELOPMENT AND PLANNING / Division of Long Range Planning & Zoning and (CITY PLAN COMMISSION) / Room #830, City-County Building, One Main Street Fort Wayne, IN 46802 (PHONE: 219/423-7571)

Applicants, Property owners and preparer shall be notified of the Public Hearing approximately ten (10) days prior to the meeting.



STATE OF INDIANA )  
 ) SS.  
 COUNTY OF ALLEN )

*Virginia H. Jones*  
 ALLEN COUNTY RECORDER

## AFFIDAVIT

GARY W. PROBST, being first duly sworn upon his oath, deposes and says that he is the Executor of the Last Will and Testament and Codicil of Mildred T. Probst, deceased, and as such is authorized and qualified to make this Affidavit;

That on the 30th day of December, 1977, he executed a certain DEED OF PERSONAL REPRESENTATIVE as Executor of said estate in favor of FRANK L. GALLUCCI and RITA M. GALLUCCI, husband and wife, conveying the following described real property in Allen County, Indiana:

All that part of the Southwest quarter of Section 17, Township 30 North, Range 12 East, lying north of the right-of-way of the Fort Wayne and Northern Indiana Traction Company, more particularly described as follows, to-wit: Beginning at the Northwest corner of said Southwest Quarter, thence North 87 degrees 49 minutes East along the North line of said Southwest Quarter, 599.3 feet to the north right-of-way line of the Fort Wayne and Northern Indiana Traction Company; thence South 51 degrees 44 minutes West along said right-of-way, 39.7 feet; thence South 53 degrees 39 minutes West, continuing along said right-of-way, 670.8 feet to the west line of said Southwest quarter; thence North 03 degrees 56 minutes West along said west line 400.3 feet to the point of beginning, containing 2.764 acres of land. SUBJECT to all real estate taxes and assessments; and ALSO SUBJECT to all easements, visible or of record, and to all restrictions, conditions and limitations of record.

Affiant further states that this Deed was recorded by the Recorder of Allen County as Instrument L 846 No. 78-7845;

Affiant further states that he was personally acquainted with the said Mildred T. Probst, deceased, and was the step-son of said Mildred T. Probst, deceased; that further the Mildred T. Lane appearing in the chain of title to the above captioned real estate is one and the same person as Mildred T. Probst, deceased; Mildred T. Lane being the maiden name of Mildred T. Probst, deceased;

That Affiant makes this Affidavit for the purpose of clearing title and providing a proper chain of title to the above referenced real estate;

Further, Affiant sayeth not.

DULY ENTERED FOR TAXATION

APR 19 1979

*Gloria J. Hagglein*  
 STATE OF INDIANA )  
 AUDITOR OF ALLEN COUNTY )  
 ) SS.  
 COUNTY OF ALLEN )

*Gary W. Probst*  
 Gary W. Probst

Before me, a Notary Public for said County and State, personally appeared GARY W. PROBST and acknowledged his truth and veracity of the above and foregoing Affidavit.

My commission expires:

12/12/81

*Gallucci -*  
 10434 Covington Rd - 46809

*Nancy B. Hopkins*  
 Notary Public  
 NANCY B. HOPKINS

INSTRUMENT M

1539

10  
 2504



LAW OFFICES

**GALLUCCI, HOPKINS & THEISEN**

PROFESSIONAL CORPORATION

7TH FLOOR, PAINE WEBBER BUILDING

803 SOUTH CALHOUN STREET

FORT WAYNE, INDIANA 46802

TELEPHONE 219 / 424-3800

March 14, 1984

FRANK L. GALLUCCI  
MEMBER INDIANA, MICHIGAN AND  
DISTRICT OF COLUMBIA BARS

WILLIAM T. HOPKINS, JR.  
MEMBER INDIANA BAR

JOHN C. THEISEN  
MEMBER INDIANA AND  
MISSOURI BARS

STEVEN D. HAASER  
MEMBER INDIANA BAR

ROBERT C. BOHNER  
MEMBER INDIANA, WISCONSIN  
AND ILLINOIS BARS

JOHN W. BOWERS  
MEMBER INDIANA BAR

JAMES D. STREIT  
MEMBER INDIANA AND  
CALIFORNIA BARS

KIM ALAN ARMSTRONG  
MEMBER INDIANA AND  
OHIO BARS

JOHN T. MENZIE  
MEMBER INDIANA AND  
ILLINOIS BARS

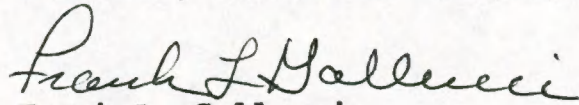
MEMBERS OF THE  
CITY PLAN COMMISSION  
City-County Building  
Fort Wayne, Indiana 46802

Dear Members:

It is the purpose of this statement to inform all commission members that I am making a voluntary commitment to build only single family homes on my property located on Smith Road just south of the Fort Wayne Country Club golf course.

Very truly yours,

GALLUCCI, HOPKINS & THEISEN, P.C.

  
Frank L. Gallucci

FLG/tn

L599N/7

RESOLUTION OF ZONING ORDINANCE AMENDMENT RECOMMENDATION

WHEREAS, the Common Council of the City of Fort Wayne, Indiana, on February 12, 1985, referred a proposed zoning map amendment to the City Plan Commission which proposed ordinance was designated as Bill No. Z-85-02-13; and,

WHEREAS, the required notice of public hearing on such proposed ordinance has been published as required by law; and,

WHEREAS, the City Plan Commission conducted a public hearing on such proposed ordinance on March 18, 1985;

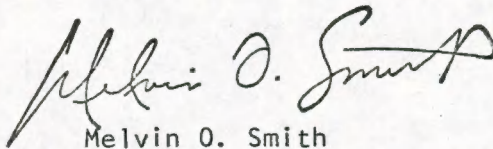
NOW THEREFORE, BE IT RESOLVED that the City Plan Commission does hereby recommend that this ordinance be returned to the Common Council with a DO PASS recommendation based on the Commission's following "Findings of Fact":

- (1) the grant will not be injurious to the public health, safety, morals, and general welfare of the community;
- (2) the use or value of the area adjacent to the property included in the rezoning will not be affected in a substantially adverse manner;
- (3) the need for the rezoning arises from some condition peculiar to the property involved and the condition is not due to the general conditions of the neighborhood;
- (4) the strict application of the terms of the zoning ordinance will constitute an unusual and unnecessary hardship if applied to the property for which the rezoning is sought; and,
- (5) the grant does not interfere substantially with the comprehensive plan adopted under the 500 series of the metropolitan development law.

BE IT FURTHER RESOLVED that the Secretary is hereby directed to present a copy of this resolution to the Common Council at its next regular meeting.

This is to certify that the above is a true and exact copy of a resolution adopted at the meeting of the Fort Wayne City Plan Commission held March 25, 1985.

Certified and signed this  
8th day of April 1985.

  
Melvin O. Smith  
Secretary



BILL NO. Z-85-02-13

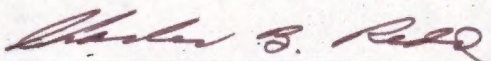
REPORT OF THE COMMITTEE ON REGULATIONS

WE, YOUR COMMITTEE ON REGULATIONS TO WHOM WAS  
REFERRED AN (ORDINANCE) (~~RESOLUTION~~) amending the City of Fort  
Wayne Zoning Map No. F-11

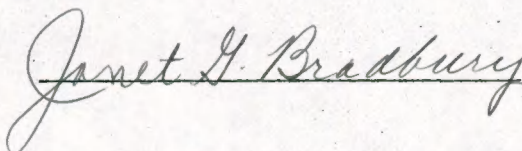
HAVE HAD SAID (ORDINANCE) (RESOLUTION) UNDER CONSIDERATION AND BEG  
LEAVE TO REPORT BACK TO THE COMMON COUNCIL THAT SAID (ORDINANCE)  
(RESOLUTION) \_\_\_\_\_

YES

NO



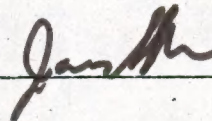
CHARLES B. REDD  
CHAIRMAN




JANET G. BRADBURY  
VICE CHAIRWOMAN

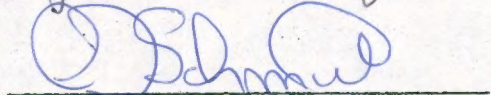
\_\_\_\_\_

JAMES S. STIER





BEN A. EISBART



DONALD J. SCHMIDT

CONCURRED IN 4-23-85

SANDRA E. KENNEDY  
CITY CLERK

RECEIPT

CK #347  
COMMUNITY DEVELOPMENT & PLANNING

No 10845

FT. WAYNE, IND., 12/13 1967

RECEIVED FROM

Peter Gallucci

\$ 50.00

THE SUM OF

fifty & 00/100

DOLLARS

ON ACCOUNT OF

Leorning-Smith Road  
1015

AUTHORIZED SIGNATURE







**FACT SHEET**

Z-85-02-13

BILL NUMBER

**Division of Community  
Development & Planning****BRIEF TITLE**

Zoning Ordinance Amendment

**APPROVAL DEADLINE****REASON****DETAILS****Specific Location and/or Address**3600 Block of Smith Road (South of Fort  
Wayne Country Club)**Reason for Project**

Develop single family subdivision.

**Discussion (Including relationship to other Council actions)**March 18, 1985 Public Hearing

A letter was submitted by the petitioner making a commitment to develop the land only for single family use.

Peter Gallucci, representing petitioner state they intended to build 10 to 12 units and the development would have a condominium type of ownership. He stated the houses would be owned by the purchaser but the common ground would be owned by and controlled by the association. He stated he felt it would give the developer (Frank Gallucci) more control over the development of the homes and enable him to retain control after the project is built. He stated the homes would start at a cost of approximately \$200,000.

Mark Strong, engineer with Turnbell Engineering stated that the density allowed under the present zoning is 13, they are planning on a less dense project.

Ben Eisbart questioned why they needed the RA zoning if they intended to build single family.

**POSITIONS****Sponsor****Area Affected****Applicants/  
Proponents****Opponents****Staff  
Recommendation****Board or  
Commission  
Recommendation****CITY COUNCIL  
ACTIONS  
(For Council  
use only)****RECOMMENDATIONS**

City Plan Commission

City Wide

Other Areas

**Applicant(s)**Frank Gallucci, Sr.  
City Department

Other

**Groups or Individuals****Basis of Opposition**☐ For ☒ Against**Reason Against**

- spot zoning

**By**☒ For ☐ Against  
☐ No Action Taken☐ For with revisions to conditions  
(See Details column for conditions)☐ Pass ☐ Other  
☐ Pass (as amended) ☐ Hold  
☐ Council Sub. ☐ Do not pass



## DETAILS

Peter Gallucci stated that if they had to develop under the R-1 they would have to subdivide the property into lots and sell the entire lot and the only way then to enforce any covenants on the land would be through court action. He stated though under the RA they would not be obliged to subdivide the property into lots but could sell the homes only and thereby retain control over the land.

Mr. Strong stated that they also have more flexibility under the RA zoning. He stated with the R-1 zoning they would be restricted by sideyard requirements on each lot, unless they would request a waiver from the BZA. He stated they would end up having to build smaller units on the property.

V.C. Seth, Director of Planning for CD&P, stated the Commission could ask the petitioner to submit a development plan and approve both the rezoning and plan at the same time. He stated this would give the Commission a good idea of what they were approving in the RA zoning. He stated he would still suggest this is spot zoning. He stated though that a plot plan would allow them to approve the request of rezoning based upon the plan.

Gary Baeten, Senior Planner with CD&P, stated that the petitioners submitted the request in stead of going through the Subdivision Control Ordinance to eliminate a considerable amount of complications with setbacks and lot coverage. He stated they have submitted a development plan and a public hearing on the plan is scheduled for April.

## POLICY/PROGRAM IMPACT

Policy or Program Change	<input type="checkbox"/> No	<input type="checkbox"/> Yes
Operational Impact Assessment		

(This space for further discussion)

Ben Eisbart questioned if a deferral would inconvenience the petitioner.

Mr. Strong stated that it would. He stated they want to be under construction later this summer if possible. He stated they are willing to work with staff and work out any problems with the development plan they had submitted.

There was no one else present who wished to speak in favor of or in opposition to the proposed rezoning.

March 21, 1985 Business Meeting

Motion was made to approve the requested rezoning and carried.

The Plan Commission conditioned the approval provided the property be used for single family residential development as was stated by the petitioner. (Copy of letter from petitioner attached to original rezoning ordinance).

**Project Start**

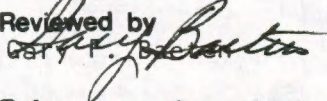
**Date** December 12, 1984

**Projected Completion or Occupancy**

**Date** April 4, 1985

**Fact Sheet Prepared by**  
Pat Biancaniello

**Date** April 4, 1985

**Reviewed by**  
  
Gary F. Baeten

**Date** April 4, 1985

**Reference or Case Number**



**ORIGINAL** DIGEST SHEET

**ORIGINAL** 2-85-02-13

TITLE OF ORDINANCE Zoning Ordinance Amendment

DEPARTMENT REQUESTING ORDINANCE Land Use Management - CD&P

SYNOPSIS OF ORDINANCE A 2.7 acre parcel located south and directly adjacent  
to the Fort Wayne Country Club and on the east side of Smith Road.

Councilmanic District No. 4

EFFECT OF PASSAGE Property is now zoned R-1 - Single Family Residential. Property  
will become RA - Suburban Residential.

EFFECT OF NON-PASSAGE Property will remain R-1 - Single Family Residential.

MONEY INVOLVED (Direct Costs, Expenditures, Savings) \_\_\_\_\_

(ASSIGN TO COMMITTEE (J.N.) \_\_\_\_\_